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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/643,578	12/21/2006	Colin Rule	P2395.10198US01	4119
132897	7590	11/02/2018	EXAMINER	
Maschoff Brennan/ PayPal 1389 Center Drive, Ste 300 Park City, UT 84098			RUHL, DENNIS WILLIAM	
			ART UNIT	PAPER NUMBER
			3689	
			NOTIFICATION DATE	DELIVERY MODE
			11/02/2018	ELECTRONIC

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte COLIN RULE and OSAMA MOSTAFA BEDIER

Appeal 2017-003690¹
Application 11/643,578²
Technology Center 3600

Before NINA L. MEDLOCK, JAMES A. WORTH, and
SCOTT C. MOORE, *Administrative Patent Judges*.

WORTH, *Administrative Patent Judge*.

DECISION ON APPEAL
STATEMENT OF THE CASE

Appellants appeal under 35 U.S.C. § 134(a) from the Examiner’s final rejection under 35 U.S.C. § 101 of claims 1, 2, 4, 5, 7–12, 14, 15, 17–22, 24, 25, and 27–31, which constitute all the claims pending in this application.³

¹ Our Decision refers to the Appellants’ Appeal Brief (filed July 18, 2016, “Appeal Br.”) and Reply Brief (filed Jan. 3, 2017, “Reply Br.”), and the Examiner’s Final Office Action (mailed July 27, 2015, “Final Act.”) and Answer (mailed Nov. 3, 2016, “Ans.”).

² According to Appellants, the real party in interest is PayPal, Inc. (Appeal Br. 2).

³ This is the second time this application has come to the Board. Previously, we reversed rejections based on 35 U.S.C. § 112, first paragraph (written

We have jurisdiction under 35 U.S.C. §§ 134 and 6(b).

We AFFIRM.

Introduction

Appellants' application "relates generally to the technical field of automated dispute resolution and, in one example, to a system and method to provide a unified interface to aggregate a plurality of disputes from two or more payment processing systems." Spec. ¶ 2.

Claims 1, 11, 21, and 31 are the independent claims on appeal.

Claim 1, reproduced below, is illustrative of the subject matter on appeal:

1. A system comprising:
 - a processor;
 - a network-based resolution module to, using the processor:
 - receive a notification of a first dispute from a first payment processing system, the first dispute opened by a first customer via the first payment processing system, the first dispute concerning a transaction between the first customer and a common entity;
 - receive a notification of a second dispute from a second payment processing system, the second dispute opened by a second customer via the second payment processing system, the second dispute concerning a transaction between the second customer and the common entity;
 - provide information about the first dispute and information about the second dispute in a unified user interface;
 - and
 - resolve the first dispute and the second dispute via the unified user interface without the common entity working individually with either of the first payment processing system and the second payment processing system;
 - wherein each of the first payment processing system and the second payment processing system is at least one of a credit

description) and § 102. Appeal No. 2012-006804, 2015 WL 430483 (PTAB Jan. 30, 2015).

card or charge card processor, a merchant bank that handles processing of a credit card or charge card, and a web-based processing system that handles payments of transactions related to a web-based commerce site.

Appeal Br. 31, Claims App.

Rejection on Appeal

The Examiner maintains, and Appellants appeal, the following rejection:

Claims 1, 2, 4, 5, 7–12, 14, 15, 17–22, 24, 25, and 27–31 under 35 U.S.C. § 101 as being directed to an abstract idea.

ANALYSIS

Independent claim 1

The Court in *Alice* emphasized the use of a two-step framework for analysis of patentability under 35 U.S.C. § 101:

First, we determine whether the claims at issue are directed to one of those patent-ineligible concepts. If so, we then ask, “[w]hat else is there in the claims before us?” To answer that question, we consider the elements of each claim both individually and “as an ordered combination” to determine whether the additional elements “transform the nature of the claim” into a patent-eligible application.

See Alice Corp. v CLS Bank Intl, 134 S. Ct. 2347, 2355 (2014) (citing *Mayo Collaborative Servs. v. Prometheus Labs., Inc.*, 566 U.S. 66, 72 (2012)).

The Examiner determines that claim 1 is directed to:

providing for dispute resolution, *where the claimed steps of receiving the first and second notifications of a first and second dispute, providing the information in an interface, and resolving the first and second disputes without working individually with either of the claimed payment processing systems are what defines the judicial exception of the claims* (the abstract idea).

Final Act. 2. The Examiner determines that providing dispute resolution is a method of organizing human activities because it relates to interpersonal and intrapersonal activities, and more specifically to managing relationships or transactions between people. *See* Ans. 3–4 (citing USPTO, July 2015 Update on Subject Matter Eligibility, 80 Fed. Reg. 45,429 (July 30, 2015)). The Examiner further determines that the act of providing for dispute resolution, including via a processor, was well understood in the field of dispute resolution and a well-understood and fundamental aspect of our system of commerce, as evidenced by the Background of the Invention section of the Specification. *See* Final Act. 2–3.

The Examiner makes additional factual findings with respect to the recited processor and computer functionalities, and determines for each that the claimed invention uses generic computer functions without significantly more, and that this merely represents the implementation of an abstract idea on a generic computer. *See* Final Act. 2–7. We adopt and incorporate by reference the Examiner’s findings.

Appellants argue that the Examiner provided an unreasonably broad summary of the claims that is not adequately tied to the claim language. Appeal Br. 20. Appellants assert that the “mention by the Examiner of a summary of a subset of recited claim elements does not change the fact that it is the ‘idea of providing dispute resolution services’ that the Examiner alleged is abstract, not the particular elements recited in the claims at issue.” *Id.* at 20. We are unpersuaded by Appellants’ argument. Appellants concede that the Examiner reviewed multiple claim elements in characterizing the subject matter of the claim. The Examiner considered the “dispute resolution” subject matter as a method of organizing

human activities, but also proceeded to analyze the use of a processor for this purpose as a “fundamental aspect [of] our system of commerce.” *See* Final Act. 2–3. Further, the Examiner made detailed findings for each recitation relating to computer functionality at least with respect to step two of the *Alice* inquiry, determining that the computer functionality was used generically and did not provide significantly more than an abstract idea. *See id.* at 2–7. Thus, the Examiner considered more than the presence of dispute resolution as part of the analysis provided.

Appellants argue that the burden is on the Examiner and that the Supreme Court did not create a per se exclusion for software or business methods or impose any special requirements for software or business methods. Appeal Br. 21–22 and n.73 (citing USPTO, 2014 Interim Guidance on Patent Subject Matter Eligibility, 79 Fed. Reg. 74,618, slip guidance at 42 (Dec. 16, 2014)). Appellants argue that the Examiner makes a bare, conclusory assertion that the claims at issue in this case are similar to the claims that were at issue in *Bilski v. Kappos*, 561 U.S. 593 (2010), *Alice*, and *SmartGene, Inc. v. Advanced Biological Laboratories, SA*, 555 F. App’x 950 (Fed. Cir. 2014), without an explanation as to why the holdings in those cases are relevant. *Id.* at 22–23.

The Examiner responds that several cases have found concepts of managing relationships or transactions between people to be abstract, and that these cases apply because the claimed invention and Specification (¶ 3) relate to dispute resolution for two parties to a transaction. Ans. 4–6 (citing *Alice*, 134 S. Ct. 2347 (2014) (mitigating settlement risk); *Bilski* (hedging); *buySAFE, Inc. v. Google, Inc.*, 765 F.3d 1350 (Fed. Cir. 2014) (contractual relationship); *Dealertrack, Inc. v. Huber*, 674 F.3d 1315 (Fed. Cir. 2012)

(processing loan information); *Bancorp Servs., L.L.C. v. Sun Life Assur. Co. of Canada (U.S.)*, 687 F.3d 1266 (Fed. Cir. 2012) (managing an insurance policy); *Planet Bingo, LLC v. VKGS LLC*, 576 F. App'x 1005 (Fed. Cir. 2014) (non-precedential) (managing a game of Bingo); *Gametek LLC v. Zynga, Inc.*, 597 F. App'x 644 (Fed. Cir. 2015) (allowing players to purchase additional objects during a game; *Accenture Glob. Servs., GmbH v. Guidewire Software, Inc.*, 728 F.3d 1336 (Fed. Cir. 2013) (generating rule-based tasks for processing an insurance claim). The Examiner also reasons that the guidelines relied on by Appellants provide that the subject matter of dispute resolution for a transaction falls within the category of a method of organizing human activities, and that the abstract idea is “defined” by the following limitations: “*receiving the first and second notifications of a first and second dispute, providing the information in an interface, and resolving the first and second disputes without working individually with either of the claimed payment processing systems.*” Ans. 5–6. The Examiner indicates that *SmartGene* is another example of the category of methods of organizing human activities discussed in the 2015 guidelines. *See* Ans. 9.

We agree with the Examiner that dispute resolution for the parties to a transaction is a method of organizing human activity because it is the management of relationships and transactions between people. In our previous decision, we made the following factual findings:

The Specification explains that the common entity resolves disputes through the creation of rules, e.g., through which a common entity may agree to provide an automatic refund for parties when the amount is below a predetermined threshold (Spec. ¶ 80). The Specification discloses that these rules, applicable to multiple, aggregated disputes, “may resolve certain disputes automatically *without further participation by any party*” (*id.*, emphasis added). The system thus allows the

common entity to resolve disputes “associated with a plurality of payment processing systems” at the same time (Spec. ¶ 81).

Appeal No. 2012-006804, slip op. at 4. The Specification further provides:

The process 1400, at operation 1410, receives into a resolution module 1025 a plurality of disputes relating to transactions involving a common entity. The plurality of disputes at 1410 are associated with two or more payment processing systems 1030. At operation 1420, information is provided, in the unified interface 1020, relating to disputes that are associated with at least one of the two or more payment processing systems 1030. Information may be provided that is associated with several of the payment processing systems, and information may be provided that relates to all of the payment processing systems with which a merchant or other common entity has transactions.

Spec. ¶ 81. We agree with the Examiner that the limitations highlighted by the Examiner, as well as paragraphs 3 and 80–81 of the Specification, are for the management of human relationships—here, a system for dispute resolution relating to commercial transactions, whereby a commercial entity may forward disputes involving multiple payment processing systems to a system for arbitration and resolution. *See also* Spec. ¶ 66–67 (discussing arbitration). We also agree with the Examiner that the management of relationships resembles those in the cases relied on by the Examiner. For example, the claim at issue resembles that in *buySAFE*, 765 F.3d at 1355, where a claim was directed to the abstract idea of creating a contractual relationship—a “transaction performance guaranty,” and to that in *Accenture Glob. Servs., GmbH v. Guidewire Software, Inc.*, 728 F.3d 1336, 1344 (Fed. Cir. 2013), where a claim was directed to the abstract idea of generating tasks based on rules to be completed upon the occurrence of an event. Here, the merchants enter into a rules-based system for dispute

resolution for a commercial transaction, so that the parties to a transaction have recourse if they are not satisfied.

Appellants argue that the claims at issue are distinguished by the following limitation, which is not conventional and does not relate to a thought process, as in *SmartGene*: “resolving the first dispute and the second dispute via the unified user interface without the common entity working individually with either of the first payment processing system and the second payment processing system.” Appeal Br. 23–24, 27. However, the resolution of a dispute according to rules without the participation of a bank—is itself an abstract idea based on the management of human relationships.

Appellants argue that the claims at issue are directed to a computer-centric problem having a solution that is necessarily in computer technology, as in *DDR Holdings, LLC v. Hotels.com, L.P.*, 773 F.3d 1245 (Fed. Cir. 2014). *Id.* at 28. Appellants further argue that the claim limitations provide a specific implementation, which is a non-abstract solution, as in *BASCOM Global Internet Services, Inc. v. AT&T Mobility LLC, AT&T Corp.*, 827 F.3d 1341 (Fed. Cir. 2016). *Id.* at 28–29. To the extent independent claim 1 provides an implementation, as argued, that goes beyond relationships of the parties, it would be the use of a “unified interface” for disputes relating to “a common entity.” However, we agree with the Examiner’s determination that the “unified interface” is simply a feature that aggregates the information relating to a given party and displays it and that this is generic computer functionality. *See* Final Act. 4–5 (discussing data gathering and display). In *Alice*, as discussed in progeny, the mere tracking of multiple

transactions was held not to transform an invention into patentable subject matter:

The Court explained that the method claims in *Alice* invoke “the use of a computer to create electronic records, track multiple transactions, and issue simultaneous instructions,” *id.* at 2359; “electronic recordkeeping,” *id.*; and “the use of a computer to obtain data, adjust account balances, and issue automated instructions,” *id.* They “do not, for example, purport to improve the functioning of the computer itself. *See* [*CLS Bank Int’l v. Alice Corp. Pty. Ltd.*, 717 F.3d 1269, 1286 (Fed.Cir.2013) (Lourie, J., concurring)] (“There is no specific or limiting recitation of ... improved computer technology ...”); Brief for United States as *Amicus Curiae* 28–30.” *Alice*, 134 S. Ct. at 2359. They do not “effect an improvement in any other technology or technical field,” and they merely invoke “some unspecified, generic computer.” *Id.* at 2359–60. The system claims in *Alice* are “no different,” the Court added, explaining that they invoke a “‘data processing system’ with a ‘communications controller’ and ‘data storage unit,’” which are “purely functional and generic” components for “performing the basic calculation, storage, and transmission functions required by the method claims.” *Id.* at 2360. Finally, the Court viewed the claims to a computer-readable medium for the methods as indistinguishable for section 101 purposes. *Id.*

buySAFE, 765 F.3d at 1354 (discussing *Alice*, 134 S. Ct. at 2359–60).

In this connection, the claim here is distinguishable from that in *DDR*, which was directed to improving the look and feel of a website. *DDR*, 773 F.3d 1 at 1257–58. Indeed, the claims here appear to generically claim the use of the internet to perform an abstract business practice, which the court in *DDR* explained is itself not patentable subject matter. Even incorporating the Specification and drawings into the claims, the claimed invention is similar to the use of a computer to create electronic records, track multiple transactions, and issue automated instructions, as in *Alice*.

Contrary to Appellants' position, the claimed invention does not represent a specific improvement in computer technology as in *Enfish* or *BASCOM*. Appeal Br. 24, 28–29. In *Enfish*, the court held patentable certain data structures in an innovative logical model for a computer database that were directed to advances in computing technology. *See Enfish, LLC v. Microsoft Corp.*, 822 F.3d 1327, 1130, 1338–39 (Fed. Cir. 2016). In *BASCOM*, the court determined that there was an ordered combination of conventional components that provided for filtering of internet content based on the location of a filtering component in a network. *BASCOM*, 827 F.3d at 1350. Here, however, claim 1 does not provide for a technological improvement other than displaying results related to a common entity, which as the Examiner found is not more than a generic implementation. *See* Ans. 9–10. *See also* Spec. ¶ 78, Figs. 11, 12A, 12B, 16 (relating to display).

Appellants argue that the use of rules makes the subject matter patent eligible, and that the Examiner has disregarded technological aspects of the claimed invention such as “payment processing systems,” “the system,” and “rules” that, as taught in the Specification, “may resolve certain disputes automatically without further participation by any party.” Reply Br. 8–9. Although this last phrase does not appear in the claims, certain of the dependent claims, i.e., claims 8, 18, and 28, refer to automatic chargeback and notification. Automatic notification is similar to the detecting, analyzing, and displaying of events which was held not to transform an invention into patent eligible subject matter in *Electric Power Group, LLC v. Alstom S.A.*, 830 F.3d 1350, 1354 (Fed. Cir. 2016). *See also Accenture Glob. Servs., GmbH v. Guidewire Software, Inc.*, 728 F.3d 1336, 1344

(Fed. Cir. 2013) (generating tasks based on rules to be completed upon the occurrence of an event held abstract). Further, this case does not resemble the specific implementation of rules in *McRO*, where the court explained that the claimed invention “uses a combined order of specific rules that renders information into a specific format that is then used and applied to create desired results: a sequence of synchronized, animated characters.”

McRO, Inc. v. Bandai Namco Games Am. Inc., 837 F.3d 1299, 1315

(Fed. Cir. 2016). Here, the idea that a dispute can be resolved without going back to the parties once the information is received relates to management of human relations, which is part of the same abstract idea. Thus, we are not persuaded by Appellants that the use of rules (or algorithms) or the use of a processor with generic computing functionality here transforms the claimed invention into patentable subject matter, either considered individually or as an ordered combination.

We, therefore, sustain the Examiner’s rejection under 35 U.S.C. § 101 of independent claim 1.

Independent claim 31

Appellants argue that the “means for” limitations of independent claim 31, like the “means for matching limitation” in *Chicago Mercantile Exchange v. 5th Market, Inc.*, Case CBM2015-00061, slip op. at 37–38 (PTAB July 16, 2015) (Paper 9), transforms a general purpose computer into a special purpose computer and that claim 31 is, therefore, patent eligible. Appeal Br. 29. Claim 31 recites “means for receiving a notification of a first dispute,” “means for receiving a notification of a second dispute,” “means for providing information,” and “means for resolving the first dispute and the second dispute.” Although Appellants do

not identify any corresponding parts of the Specification, we have already considered the Specification with respect to independent claim 1, and agree with the Examiner that the computer structures and functionalities are generic. *See* Final Act. 2–7.

We, therefore, sustain the Examiner’s rejection under 35 U.S.C. § 101 of independent claim 31, for similar reasons as for independent claim 1.

Remaining claims

Appellants argue that the burden is on the Examiner, that the claims at issue include significantly more than the Examiner’s purported abstract idea, and that the Examiner did not specifically identify each of the extra claim elements. *See* Appeal Br. 21. However, the Examiner need not reproduce claims in their entirety in characterizing them. Appellants do not provide specific arguments thereto, or explain why the additional limitations claim significantly more than a method of organizing human relations implemented on generic computer structures, as determined by the Examiner. *See* 37 C.F.R. § 41.37(c)(1)(iv) (“A statement which merely points out what a claim recites will not be considered an argument for separate patentability of the claim.”). In any event, we have reviewed the claim language of the remaining claims, including such terms as “wherein the common entity includes one or more of a buyer and a seller” (claim 2; *see also* claims 12, 22); “wherein the network-based resolution module is to determine whether the common entity has a user account” and “to selectively provide the common entity access” (claim 4; *see also* claims 14, 24); “wherein at least one of the first dispute and the second dispute relates to a chargeback” (claims 5, 15, 25); “further comprising a dispute resolution module to receive a dispute resolution rule from the common entity” (claims

7, 17, 27); “wherein the dispute resolution rule includes a condition under which a chargeback is automatically accepted” (claims 8 and 18; *see also* claim 28); “the condition is that the chargeback comprises an amount less than a threshold” (claims 9, 19, 29); and “wherein the unified interface provides information to the common entity relating to a dispute that has been resolved” (claims 10, 20, 30). We agree with the Examiner that the aforementioned claim limitations do not provide significantly more than the use of the Internet to perform the abstract idea of dispute resolution for a commercial transaction by a third party.

We, therefore, sustain the Examiner’s rejection under 35 U.S.C. § 101 of claims 2, 4, 5, 7–12, 14, 15, 17–22, 24, 25, and 27–30, for similar reasons as for independent claim 1.

DECISION

The Examiner’s decision to reject claims 1, 2, 4, 5, 7–12, 14, 15, 17–22, 24, 25, and 27–31 under 35 U.S.C. § 101 is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a). *See* 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED